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INFO RUEHTN/AMCONSUL CAPE TOWN IMMEDIATE 7713
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RUEHJO/AMCONSUL JOHANNESBURG IMMEDIATE 6916

UNCLAS SECTION 01 OF 06 STATE 060529

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TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [SA](#)
SUBJECT: SOUTH AFRICA -- 2009 TIP REPORT: PRESS GUIDANCE
AND DEMARCHE

REF: (A) STATE 59732 (B) STATE 005577

1. This is an action cable; see paras 5 through 7 and 10.

¶2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

¶3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of South Africa of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of South Africa and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not precede the Secretary's release at 10:00 am EDT on June 16.

¶4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

¶5. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of South Africa of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

¶6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the

narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of South Africa,s country narrative in the 2009 TIP Report:

South Africa (TIER 2)

South Africa is a source, transit, and destination country for trafficked men, women, and children. Children are largely trafficked within the country from poor rural areas to urban centers like Johannesburg, Cape Town, Durban, and Bloemfontein) girls trafficked for the purposes of commercial sexual exploitation and domestic servitude; boys

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trafficked for forced street vending, food service, begging, crime, and agriculture; and both boys and girls trafficked for &muti8 (the removal of their organs for traditional medicine). The tradition of &ukuthewala,8 the forced marriage of girls as young as 12 to adult men, is still practiced in remote villages in the Eastern Cape. Local criminal rings and street gangs organize child prostitution in a number of South Africa,s cities, which are also common destinations for child sex tourists. In the past, victims had typically been runaways who fell prey to city pimps, but now crime syndicates recruit victims from rural towns. South African women are trafficked to Europe and the Middle East for domestic servitude and sexual exploitation. Nigerian syndicates have reportedly begun moving trafficked women from South Africa to the U.S. as well for African migrant clients there. Women and girls from Thailand, Congo, India, the People,s Republic of China (PRC), Taiwan, Russia, Ukraine, Mozambique, and Zimbabwe are trafficked to South Africa for commercial sexual exploitation, domestic servitude, and other forced work in the service sector. Some of these women are trafficked onward to Europe for sexual exploitation. A large number of Thai women are trafficked into South Africa,s illegal brothels, while Eastern European organized crime units force women from Russian andUkraine into debt-bonded prostitution in exclusive private men's clubs. Traffickers control victims through intimidation and threats, use of force, confiscation of travel documents, demands to pay job "debts," and forced use of drugs and alcohol. Organized traffickers from the PRC bring victims from Lesotho, Mozambique, and Swaziland to Johannesburg for exploitation locally, or to send them on to other cities. Men from PRC and Taiwan are trafficked to mobile sweatshop factories in Chinese urban enclaves in South Africa which evade labor inspectors by moving in and out of neighboring Lesotho and Swaziland to avoid arrest. Young men and boys from Mozambique, Malawi, and Zimbabwe voluntarily migrate illegally to South Africa for farm work, sometimes laboring for months in South Africa with little or no pay and under conditions of involuntary servitude before unscrupulous employers have them arrested and deported as illegal immigrants.

The Government of South Africa does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government opened prosecutions against 16 suspected trafficking offenders during the year and is continuing to

prepare for late 2009 passage and subsequent implementation of its comprehensive anti-trafficking law by developing inter-agency operating procedures and training officials on the law, victim identification, and agency roles. Foreign victims in South Africa, however, still face inadequate protection from the government and sometimes are treated as criminals. Labor trafficking does not receive as much government attention as does sex trafficking. Moreover, little or no information is made available about the status of pending prosecutions, and the government suspended development of a national anti-trafficking plan of action to start the process anew.

Recommendations for South Africa: Pass and enact the Prevention and Combating of Trafficking in Persons Bill; implement the Children,s Amendment Act of 2007; increase awareness among all levels of relevant government officials as to their responsibilities under the trafficking provisions of the Sexual Offenses and Children,s Acts; support prevention strategies developed by NGOs to address demand for commercial sex acts and protect children from commercial sexual exploitation in advance of the 2010 World Cup; support the adoption of measures to protect children from sexual exploitation in travel and tourism; and institute formal procedures to regularly compile national statistics on the number of trafficking cases prosecuted and victims assisted, as is done for other crimes.

Prosecution

The government greatly increased its law enforcement efforts in 2008. Since May 2008, the government began prosecuting new trafficking cases under recently implemented sex offense laws; the court cases are on-going and no trafficking offenders have yet been convicted. The South African Law Reform Commission (SALRC) released a first draft of comprehensive anti-trafficking legislation in mid-2008 for consultations and revisions. The SALRC then submitted a report on the bill along with a second draft to the Minister of Justice and the parliamentary committee in November 2008. That draft is posted online for public commentary to close by June 15, 2009, in preparation for a year-end Parliamentary vote. A variety of other criminal statutes, such as the

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Prevention of Organized Crime Act (POCA) and the Sexual Offenses Act (SOA), were used to prosecute trafficking crimes. Law enforcement authorities could also use existing laws prohibiting involuntary servitude, child labor, and forced labor to prosecute labor trafficking cases but have done so in only one case. The aforementioned laws prescribe sufficiently stringent penalties of up to 20 years, imprisonment, which are commensurate with penalties prescribed for other grave crimes, such as rape. During the past year, the government opened at least five new trafficking prosecutions, including two with charges under the newly expanded SOA, and began arresting suspects as a result of a separate recently-completed investigation in Durban. In May 2008, the Pretoria Magistrate,s Court opened the trial of a Mozambican woman charged under the SOA and labor laws with child trafficking and forced labor for exploiting three Mozambican girls in prostitution and domestic servitude in early 2008. The trial was interrupted and postponed twice in 2008 for illness and equipment failure, then resumed in late February 2009 when the final prosecution witnesses testified. No result had been announced as of the drafting of this report. Also in May 2008, a female club owner and her adult daughter were arrested for forcing eight South African women into prostitution; the government did not provide any additional information on this case. In June 2008, the government began prosecuting a Sierra Leone national for selling girls aged 8 to 12 into prostitution. In December 2008, a prosecution began of five Nigerian men charged under the SOA for trafficking Nigerian women through South Africa. In late January 2009, six Nigerians and one Tanzanian were arrested,

and 17 South African victims rescued, in North West province.

In late March 2009, several top businessmen in Durban were arrested for involvement in a child prostitution syndicate and charged under the amended SOA, child protection laws, and pornography laws; their prosecutions are pending. Police continued investigating other suspects in this case. Prosecutions begun in 2006 and 2007 were still before the courts) no verdict has been reached in the trial of a South African man charged in 2006 with the forced prostitution of 16 Thai victims, racketeering and money laundering; the trial of two Indian and Thai traffickers arrested in July 2007 at a brothel in Durban also continued. In April 2008, a South African citizen and his Thai wife pled guilty to charges of keeping a brothel and prostitution, and both were deported to Thailand. Twenty-seven Chinese female trafficking victims who were arrested in a brothel raid along with their traffickers in March 2008 were deported to China for immigration and employment violations, but no information about the traffickers has been released by the government. In conjunction with the National Prosecuting Authority (NPA), IOM used anti-trafficking funds from multiple donors to train police, immigration and border officials to identify trafficking victims among prostituted women, laborers, travelers, and victims of abuse. Police began to alert some embassies and IOM in advance of raiding brothels suspected of holding foreign victims.

Protection

South African government efforts to ensure trafficking victims, access to protective services increased during the reporting period. The Department of Social Development directly ran some shelters, notably for children, while also overseeing and helping to fund private shelters for victims of trafficking. Draft legislation and recently enacted laws contained significant provisions for the protection of victims which had previously been unavailable, and some agencies began to train their officials and implement the provisions. The amended SOA stipulates that victims of sex trafficking not be charged with crimes which are the direct result of having been trafficked; in the two trafficking cases prosecuted under the SOA, trafficked women forced to work as prostitutes were identified by police as victims during a raid to arrest their traffickers, and were referred for assistance rather than arrested. Following extensive awareness and sensitivity training by the UNODC, IOM, and others, police began to implement victim protection provisions contained in the SOA and in the Children's Act, which is still not enacted. Both identified and suspected trafficking victims received services and shelter at overextended facilities for victims of domestic abuse, gender-based violence, rape, and sexual assault run by NGOs. The Department of Social Development (DSD), South African Police Service (SAPS), and these private shelters collaborated to care for identified trafficking victims. DSD is the only agency authorized to refer victims to registered private shelters, and to monitor their care, prepare them for court, and accompany them through trial and/or repatriation stages. DSD and SAPS formally notified each other of cases

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to enable rapid care, as well as effective gathering of evidence and testimony. Victim-witnesses in the aforementioned child-trafficking trial testified via video-link from outside the courtroom. Three Thai women are currently receiving long-term assistance, which is offered to foreign victims who agree to remain in South Africa in witness protection programs while awaiting the trial of their traffickers. Sex trafficking victims continued to be classified in law enforcement records as victims of rape, domestic abuse, and gender-based violence; as a result, there are no official statistics concerning the number of victims assisted during the reporting period. South Africa did not provide all trafficking victims with legal alternatives to deportation to countries where they may face hardship or retribution. In March 2009, the press reported that police

deported the aforementioned 27 Chinese women detained in 2007 along with their seven alleged traffickers. Awareness of trafficking-related law, the ability to apply it to identify victims, and knowledge of appropriate procedures were lacking among many police and immigration officers, since only a relatively small number have yet received specific counter-trafficking training.

Prevention

The government demonstrated strong progress in combating human trafficking through prevention efforts. Extensive workshops by the NPA,s Sexual Offenses and Community Affairs unit (SOCA), IOM, NGOs, and academic experts prepared over 3,000 government, community, NGO, and media personnel for the passage of the comprehensive anti-trafficking law. As part of the training program, IOM ran 30 awareness-raising workshops across all nine provinces which drew 573 community participants; government officials presented speeches and led discussions during these events. The government worked with IOM to distribute more than 85,000 counter-trafficking posters and brochures in six languages, publicizing IOM's toll-free helpline. High-level officials repeatedly spoke out against sex trafficking that might occur during the 2010 FIFA World Cup preparations and activities. The Inter-sectoral Task Team addressed anti-trafficking and child protection measures as part of the plans for hosting the World Cup. The multinational South African Immigration Liaison (SAIL) Team at Johannesburg,s airport observed passengers, behavior and travel histories for patterns indicative of trafficking. In addition, flight manifests were checked for known trafficking suspects against databases with information about persons of concern before boarding began. The government continued a project begun in 2003 by drafting a Child Labor Plan of Action to combat and prevent child labor, including trafficking for child labor, which the government planned to implement in 2009. The government provided anti-trafficking training to all South African troops destined for peacekeeping missions abroad prior to their deployment.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of

trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on

website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

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¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: What is the nature of South Africa's trafficking problem?

¶A. South Africa is a source, transit, and destination country for trafficked men, women, and children. Children are largely trafficked within the country) girls for the purposes of commercial sexual exploitation, forced marriage, and domestic servitude; boys for forced street vending, food service, crime, begging, and agriculture; both boys and girls for the removal of their organs for traditional medicine. Women are trafficked to Europe and the Middle East for domestic servitude and sexual exploitation, while foreign women are trafficked into South Africa for commercial sexual exploitation, domestic servitude, and other forced work in the service sector. Men from the PRC and the ROC are trafficked to mobile sweatshop factories in Chinese urban enclaves which evade labor inspectors by moving in and out of neighboring Lesotho and Swaziland to avoid arrest. Young men and boys from other African countries voluntarily migrate illegally to South Africa for farm work, and some are forced to labor for little or no pay under conditions of involuntary servitude.

Q2: It seems that trafficking is a serious problem in South Africa, so why was the country upgraded to Tier 2 this year?

¶A. This past year, the government made significant efforts to comply with the minimum standards for the elimination of trafficking. The government opened prosecutions against 16 suspected trafficking offenders during the year and is continuing to prepare for late 2009 passage and subsequent implementation of its comprehensive anti-trafficking law by developing inter-agency operating procedures and training officials on the law, victim identification, and agency roles. Foreign victims in South Africa, however, still face inadequate protection from the government and sometimes are treated as criminals. Labor trafficking does not receive as much government attention as does sex trafficking. Moreover, little or no information is made available about the status of pending prosecutions, and the government suspended development of a national anti-trafficking plan of action to start the process anew.

Q3: What can South Africa do to maintain and further its anti-trafficking efforts?

¶A. The government could pass and enact the Prevention and Combating of Trafficking in Persons Bill; implement the Children's Amendment Act of 2007; increase awareness among

all levels of relevant government officials as to their responsibilities under the trafficking provisions of the Sexual Offenses and Children,s Acts; support prevention strategies developed by NGOs to address demand for commercial sex acts and protect children from commercial sexual exploitation in advance of the 2010 World Cup; support the adoption of measures to protect children from sexual exploitation in travel and tourism; and institute formal procedures to regularly compile national statistics on the number of trafficking cases prosecuted and victims assisted, as is done for other crimes.

¶12. The Department appreciates posts, assistance with the preceding action requests.

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